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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CRL.REV.P. 909/2002

April 16, 2007

AJAY KUMAR SINGH ..... Petitioner
Through Mr. Manzoor Ali Khan, Advocate

versus

THE STATE (NCT OF DELHI) & ANR ..... Respondents
Through Mr. R.M. Tiwari, Advocate for the CBI.

CORAM:
Mr. Justice S. Ravindra Bhat

1. Whether reporters of local papers may be allowed to see the judgment.? yes

2. To be referred to the Reporter or not? yes

3. Whether the judgment should be reported in the Digest? yes

Mr. Justice S. Ravindra Bhat (Open Court)

1. This revision petition is directed against an order of charge dated 30th July, 2002 whereby the petitioner was charged with having committed offences under Sections 348/330 read with Sections 120B/130/348 IPC and under Section 195 Cr.P.C.

2. It would be useful to narrate the facts which have been stated by the trial court in the impugned order. The relative part of that order is hereby extracted below:

> *" The facts of this case which was earlier pending in the Sessions Court at Dehradun and later on transferred to Delhi pursuant to the orders of the Hon'ble Supreme Court passed in writ petition (Crl.) No. 317/94, are that accused Geeta Ahuja and her father accused Khem Chand Ahuja (who had died during the pendency of this case) were at the relevant time living in the*

neighbourhood of the complainant -Raj Pal Dhal in Rajnagar, Ghaziabad. As per the prosecution case accused Geeta Ahuja and complainant's son Atul Dhall fell in love with each other and they wanted to get married but parents of Geeta were against their getting married. On 12.8.94 Geeta Ahuja and Atul Dhall came to Delhi without telling anyone and got married on 12.8.94. As per the further prosecution case when father of Geeta Ahuja came to know on 12.8.94 that his daughter had gone with Atul Dhall he called the police. As per further prosecution case the complainant Raj pal Dhall and his family members were tortured badly by the police officials at Police Station kavi Nagar (Ghaziabad) to extract information from them about the whereabouts of the girl Geeta Ahuja and they were detained in the Police State through out the night. In the morning of 13.8.94 accused Geeta and accused Atul Dhall came to Police Station Kavi nagar and informed the police officials that they had got married. However, the police instead of leaving complainant Rajpal Dhall and his family members produced them alongwith Atul Dhall in Court showing them to have been arrested in connection with FIR No. 408/94 which in the mean time had been registered at Police Station Kavi Nagar on 12.8.94 at 10.50 p.m. u/s. 363/366 IPC on the complaint of accused Khem Raj Ahuja that his daughter Geeta had been abducted by the complainant Raj Kumar Dhall, his son Atul Dhall and other family members. The complainant and his other family members were then remanded to judicial custody and they were released on bail on 19.8.94 and then on 20.8.94 complainant Rajpal lodged a complaint with District Magistrate Ghaziabad that he and his family members were brutally tortured by the police officials on 12/13.8.94 and requested for taking action against erring police officials. It appears that since no action was taken on the complaint of the complainant Raj Pal by the concerned authorities, his son Atul Dhal filed a writ petition before the Hon'ble Supreme Court for getting the matter investigated by the CBI. In that writ petition Hon'ble Supreme Court ordered investigation by the CBI and it was also ordered by the Hon'ble Supreme Court that further investigation of the case pertaining to FIR No. 408/94 would remain stayed. The CBI then registered this case vide FIR No. RC-28(5)95-DAD and investigated the matter and on the completion of the investigation it filed a chargesheet in the concerned Court against seven police officials namely, Sub-Inspector Satyapal Singh, Sub-Inspector Raja Vats, Ajay Kumar Singh (Sector Officer), Constable Sukhpal Singh, Constable Satyavir Singh, HC Ms. Duija yadav and Cost. Ms. Promila J. Mesih and the complainant of the other case accused Khem Raj Ahuja, who was

alleged to be a big liquor dealer in U.P. having influence in police circle, and his daughter Geeta Ahuja alleging that these accused persons had committed offences punishable u/s. 342/218/323/330/352/193/195 r/w 120-B IPC and in due course the case was committed to Sessions Court at Dehradun. Hon'ble Supreme Court also ordered on 22.7.96 that till the decision of this case no criminal proceedings will be initiated pursuant to above-referred FIR No. 408/94. thereafter, complainant's son Atul Dhal filed a transfer petition before the Hon'ble Supreme Court and vide order dated 9.1.98 Hon'ble Supreme Court transferred the case to Delhi"

3. After investigation, the CBI, which was entrusted with the proceedings, filed a charge sheet on 8th April, 1996. The Court thereafter heard counsel for the parties and proceeded to frame charges.

4. It is contended by counsel for the petitioner, who at the relevant time was the Circle Officer, that no direct role could be attributed to him and that the petitioner had visited the police barely for half an hour. In respect of the submissions, he relied upon his statement recorded under Section 164 Cr.P.C. during the course of investigations with the Magistrate. According to the statement, the stand of the petitioner was that he was nowhere involved with the case and he happened to visit the Police Station upon being informed of a crowd present at the site.

5. Learned counsel urged that in the writ petition filed by the complainant Atul Dhall before the Supreme Court, he was not made a party and that he subsequently made an application for impleadment which was dismissed. Learned counsel also endeavoured to submit that a charge of conspiracy could not be made out from the record.

6. Learned counsel for the CBI on the other hand submitted that 63 witnesses were

cited by the trial court. The proceedings are going on since, there is no interim order in the revision petition. It is further submitted that witnesses deposed to the petitioner's complicity in the case and active involvement of beating or torture of the complainant. He pointed out that PW-2 Atul Dhal, PW-3 Deepak Malik, PW-7 Sanjay Dhal, PW-1 R.P. Dhal and PW-8 Smt. Annu Dhal all backed the version of the complainant/informant and in these circumstances, no infirmity can be found with the order of the trial court. Learned counsel further urged that the question as to whether the petitioner was in fact present and duration of his visit as also other aspects which he may wish to urge in his defence are matters to be seen by the trial court in the course of the trial and ought not to be appreciated in revision.

7. The impugned order is a fairly detailed one. The trial court discussed the role played by accused as per the allegations made and the materials presented before it. What is reported is that 5 of the witnesses cited and named in the charge-sheet, consistently maintained that the petitioner A.K. Singh brutally bet Sanjay and Deepak, after which they were beaten in the Police Station where Annu was kept in a separate Room. At the stage of framing charges, the Court cannot weigh the evidence presented on a fine balance. In fact, it is not required by law to furnish reasons. If the broad probabilities of the case point to grave suspicion of accused of having committed the offence, the Court can proceed to charge them. Of course, the degree of proof should be such that a grave suspicion should be made out. This does not mean that the Court should, at the stage of framing charge be satisfied that proof beyond reasonable doubt exists. It is also settled law that if two views are possible, one favouring the accused and other implicating him,

the former must be accepted.

8. The trial court as noticed in the preceding paragraph, had discussed the entirety of the materials. It had also noted that the informant had clearly mentioned about being beaten by Sh. A.K. Singh. It also appears that such statements was part of the evidence of other witnesses which have been cited during the trial.

9. The question as to what is the effect of the evidence which would go to explain the role of the accused petitioner, cannot be seen at this stage according to the judgment of the Supreme Court in *State of Orissa vs. Debendra Nath Padhi*, 2005(1) SCC 568

10. In view of the above and having considered the submissions, I see no infirmity with the impugned order. The revision petition is accordingly dismissed.

S.RAVINDRA BHAT, J

APRIL 16, 2007
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